

**KENTON COUNTY PLANNING COMMISSION  
REGULAR MEETING**

**Minutes**

Ms. Weldon, Chair, called the meeting to order at 6:15 PM on Thursday, October 5, 2006, and opened the proceedings with the Pledge of Allegiance and an invocation by Mr. Eilerman. The meeting was held in the Commission Chambers of the NKAPC Building in Fort Mitchell. Attendance of members (for this meeting as well as those during the year to date) was as follows.

| Member              | Jurisdiction | 2006 |     |     |     |     |     |     |     |     |     |     |     |  |
|---------------------|--------------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--|
|                     |              | Jan  | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |  |
| Mark Barnett        | Taylor Mill  | X    | X   | X   | X   | X   | X   | X   | X   | X   | X   | X   |     |  |
| Barbara Carlin      | Kenton Co    | X    | X   | X   | X   | X   | X   | X   | X   | X   | X   | X   |     |  |
| Barry Coates        | Covington    | X    | X   | X   | X   | X   | X   | X   | X   | X   | X   | X   |     |  |
| James Cook          | Kenton Co    | X    | X   | X   | X   |     |     | X   | X   | X   | X   |     |     |  |
| Paul Darpel         | Edgewood     | X    | X   | X   | X   | X   | X   | X   | X   | X   | X   | X   |     |  |
| Chuck Eilerman      | Covington    | X    | X   | X   | X   | X   | X   | X   | X   | X   | X   | X   |     |  |
| Tom France          | Ludlow       | X    | X   | X   | X   | X   |     | X   | X   | X   | X   |     |     |  |
| Al Hadley           | Elsmere      | X    | X   | X   | X   | X   | X   | X   | X   | X   | X   | X   |     |  |
| David Hilgeford     | Villa Hills  | X    | X   | X   |     | X   |     |     | X   | X   | X   |     |     |  |
| Lynn Hood           | C'view Hills |      | X   | X   | X   | X   |     | X   |     | X   | X   |     |     |  |
| Phil Ryan           | Park Hills   | X    | X   | X   | X   | X   | X   | X   | X   | X   | X   | X   |     |  |
| Maura Snyder        | Indepndnce   | X    | X   | X   | X   | X   | X   | X   | X   | X   | X   | X   |     |  |
| Paul Swanson, Treas | Erlanger     | X    |     | X   |     | X   | X   | X   | X   | X   |     |     |     |  |
| Joe Tewes           | Bromley      | X    | X   | X   | X   | X   | X   | X   | X   | X   | X   | X*  |     |  |
| Alex Weldon, Chair  | Covington    | X    | X   | X   |     | X   | X   | X   | X   | X   | X   | X   |     |  |
| John Wells, V Chair | Ft Mitchell  |      | X   | X   | X   | X   |     | X   | X   |     | X   |     |     |  |
| Bernie Wessels      | Cres Springs | X    | X   | X   | X   | X   | X   |     | X   | X   |     |     |     |  |
| Gil Whitacre        | L'side Park  | X    | X   | X   | X   | X   | X   | X   | X   |     | X   |     |     |  |
| Rick Wolnitzek      | Ft Wright    |      | X   | X   | X   | X   | X   | X   | X   | X   |     |     |     |  |

\*arrived after roll was taken at 6:38 p.m.

Also present were David Schneider, Legal Counsel, and the following NKAPC staff: Michael Schwartz, AICP, Deputy Director for Current Planning; Melissa Jort-Conway, AICP, Senior Planner; Sharmili Sampath, Associate Planner, and Laura Mitchell, Transportation Engineer.

**AGENDA:**

There were no changes noted to the agenda.

**APPROVAL OF THE MINUTES:**

Mr. Ryan noted the letter “n” needed to be added on page 14, paragraph 5 to the word “commission.” A motion was made by Mr. Hadley and seconded by Mr. Ryan to approve the

minutes. A roll call vote on the matter found Mr. Hadley, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hilgefurd, Ms. Hood, Ms. Snyder and Ms. Weldon in favor. Mr. Darpel, Mr. Whitacre and Mr. Wells abstained. The motion carried unanimously.

**FINANCIAL REPORT:**

There being no questions or comments with regard to the financial report, Mr. Swanson made the motion to approve. Ms. Hood seconded the motion. All in favor. None opposed.

**ACTIONS SINCE LAST MEETING:**

The memorandum regarding the actions taken by Staff over the past month was distributed for informational purposes only. There were no questions or comments.

**PUBLIC HEARINGS:**

**1841R**

**APPLICANT:** Kenton County Planning Commission per Alexandra K. Weldon, Chair  
**LOCATION:** An approximate 1900-acre area located generally south of Maher Road, east of the Kenton County line, west of Wilson Road, and north of Walton Nicholson Pike in unincorporated Kenton County.  
**REQUEST:** Proposed text amendments to the Kenton County Zoning Ordinance adding an Agriculture Two (A-2) Zone and associated regulations, including appropriate cross references to other sections of the County’s Zoning Ordinance.

Staff presentation and Staff recommendations by Mr. Michael Schwartz and Ms. Sharmili Sampath.

**NKAPC STAFF RECOMMENDATION:**

To approve the proposed text amendments adding a Agriculture Two (A-2) Zone and associated regulations, including appropriate cross references to other sections of the County’s Zoning Ordinance but only subject to compliance with the following conditions:

1. Section 9.33.J.2 (a) and (b) be revised to:
  - (a) Intersections adjacent to the proposed development shall be improved whenever that development will diminish their levels of service based on the following thresholds: minimum Level of Service C when located on an arterial roadway; minimum Level of Service D when located on a collector or local street.
  - (b) Intersections within the study area not adjacent to the proposed development shall be evaluated with regard to the need for improvements such as turn lanes, signal modifications, access frontage roads, and site distance clearing to maintain service levels specified above.

**Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County & Municipal Planning & Zoning Commission: December 18, 2001

**Supporting Information/Bases For NKAPC Staff Recommendation:**

1. The proposed text amendments adding an Agriculture Two (A-2) Zone, along with the necessary cross references (see Attachments 1, 2, 3, 4, and 5) is allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statutes (KRS) 100.203 (1).
2. The proposed text amendments have been tailored to meet the specific land use recommendations as identified within the *2001 Area Wide Comprehensive Plan* as amended to include the *South Banklick Small Area Study*. The Agriculture Two regulations were prepared in order to allow a conservation subdivision form of development while preserving the natural features present in the area such as riparian and viewshed areas. In addition, the proposed text amendments are consistent with the Riparian Protection, Viewshed Protection and Transportation recommendations as contained within the amended *2001 Area Wide Comprehensive Plan*.
3. The Land Use Plan element in the *2001 Area-wide Comprehensive Plan* states that “Density is intended to be a major control of residential development, therefore concepts such as Cluster Type Development, Conservation Subdivision Design and Planned Unit Development are strongly encouraged as long as they comply with the recommended densities in the Plan. Such concepts promote flexible and innovative design, making the best use of landforms, and preserving and integrating natural areas into such designs.”
4. The text amendments, as proposed, permit all the uses as presently allowed in the current zone (Agriculture One), but in addition permit the Conservation Subdivision form of development as an alternative style of development. The Conservation Subdivision form of development is not a requirement but rather an option for property owners if they wish to pursue this form of development.
5. The proposed text amendments are reasonable and efficient by providing for a streamlined permitting process, enabling applicants to develop Conservation Subdivisions “by-right” under the proposed regulations.
6. The proposed Conservation Subdivision regulations require a minimum of 30 percent of the land to be preserved as open space. A yield plan will be used to determine the density that will be permitted in the conservation subdivision. Density bonuses are provided if additional conditions such as additional open space, public access to open space, preservation of historic properties and so on are met. Since this form of development is only an option and not a requirement density bonus are included as incentives within the proposed regulations. The proposed text amendments permit Riparian and viewshed protection areas to be counted towards the required open space.
7. The text amendments, as proposed, while requiring a perimeter setback, does not have requirements for lot sizes, internal setbacks or yard areas. This is to allow for flexibility in the design of conservation subdivisions in terms of lot layout.

8. The proposed text amendments require traffic studies when development plans are submitted. The Comprehensive Plan, as amended, documented the need for traffic studies to ensure that infrastructure is adequate to meet the needs of the future population. In order to address these issues at the Stage II Development Plan a traffic study would be required per the proposed regulations. Two types of studies are outlined in the regulations. The type used is based on the amount of traffic generated by the development. Details of the traffic study and the determination of the study area will be discussed at the pre application stage.
9. The proposed Natural Resource Protection regulations cover three natural features – Hillsides, Riparian areas along creeks and Viewshed Areas. All of these were identified as key features for protection in the amended *2001 Area-wide Comprehensive Plan*. The proposed text amendments allow for these areas to be counted towards the required open space areas within a development.
10. The suggested width of the riparian buffer (50 feet on either side measured from the centerline of the stream) in the ECP Zone is a reasonable buffer based on available scientific information to protect the stream from runoff, sedimentation and to improve water quality.

The areas in question where these regulations would apply are located in the upper reaches of the Banklick Creek watershed. The Banklick Creek is currently listed by the State of Kentucky as an impaired creek due to nutrients, siltation, habitat alterations, organic enrichments/low dissolved oxygen and pathogens.

A study done by the U.S Army Corps of Engineers in 2000 Banklick Creek Watershed, Kenton County, Kentucky, Flood Damage Reduction / Ecosystem Restoration, Section 905(b) (WRDA 1986) Analysis states that “Establishment of “no-mow” zones and/or floodplain and riparian plantings to create a streamside buffer would enhance the water quality and wildlife diversity along Banklick Creek by reducing water temperatures, filtering non-point source runoff pollution, and providing wildlife corridors with additional foraging opportunities. In order to achieve these objectives, this proposal suggests the establishment of a riparian corridor twice the active channel width on either side of the stream, (or a total width of approximately 250 feet), wherever possible..... James MacBroom in *The River Book* , 1998 suggests that a twenty-meter (66 feet) buffer can effectively reduce nitrogen levels. Buffers between one hundred and three hundred feet have been demonstrated to effectively remove smaller sized particles as well as urban runoff”.

While the areas in question contain several streams, the regulations would only apply to perennial streams in the area. These were delineated based on information from U.S.G.S maps that include “Blueline streams” or perennial streams. Perennials streams are defined as those streams that flow more than 90 percent of the year and have a well-defined channel.

11. The proposed viewshed protection regulations only apply to areas 400 feet on either side of an arterial or a collector street. The 400 feet requirement delineates areas that will be affected by the viewshed protection regulations but does not require viewshed protection measures to be implemented for the entire 400 feet. Options are included for various

methods including earth berms, preserving existing vegetation, landscaping and reforestation to protect viewsheds along arterials and collectors.

12. The recommended changes to the goals of the traffic study in Section 10.30.J (a) and (b) clarifies the requirements of the traffic study with respect to on-site and off-site traffic improvements. The change clarifies that applicants will only be required to study intersections in the larger study area that will be established at the pre-application meeting. The establishment of Level of Service thresholds provides a consistent set of requirements and thresholds which can be applied to all developments within the limits of the ECP Zone.

**1842R**

**APPLICANT:** Kenton County Planning Commission per Alexandra K. Weldon, Chair

**LOCATION:** An approximate 1900-acre area located generally south of Maher Road, east of the Kenton County line, west of Wilson Road, and north of Walton Nicholson Pike in unincorporated Kenton County.

**NKAPC STAFF RECOMMENDATION:**

To approve the proposed map amendment, but only subject to compliance with the following condition:

1. That the proposed text amendments adding a Agriculture Two (A-2) Zone and associated regulations, including appropriate cross references to other sections of the county's Zoning Ordinance (Application #Z-06-09-03/1841R) be adopted prior to, or simultaneously with, the adoption of this proposed map amendment.

**Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County & Municipal Planning & Zoning Commission: December 18, 2001

**Supporting Information/Bases For NKAPC Staff Recommendation:**

1. The Land Use Plan element in the *2001 Area-wide Comprehensive Plan* states that "Density is intended to be a major control of residential development, therefore concepts such as Cluster Type Development, Conservation Subdivision Design and Planned Unit Development are strongly encouraged as long as they comply with the recommended densities in the Plan. Such concepts promote flexible and innovative design, making the best use of landforms, and preserving and integrating natural areas into such designs." The proposed map amendment will allow for flexible and innovative designs within Conservation Subdivisions while requiring protection of natural areas.
2. The proposed map amendment is consistent with the recommendations as contained within the *2001 Area-Wide Comprehensive Plan*, as amended, identified as Small Area Study which recommends that the Conservation Subdivision form of development be permitted in the areas in question.

3. The area in question is currently zoned Agriculture One (A-1) that allows for agriculture uses and in addition permits single-family residential uses on one acre lots. The proposed amendment while allowing for continued use of the land for agriculture and low-density residential development at one dwelling unit per net acre would provide an additional option for property owners to develop their land as a conservation subdivision.
4. The area in question would also act as a buffer between the proposed Eco Commerce Park zone and other medium density residential areas around the area in question, generally north of Maher Road.
5. The Kenton County Zoning Ordinance currently does not contain an A-2 Zone. An application has been submitted for KCPC review and recommendation on a proposed text amendment to the Kenton County Zoning Ordinance adding an Agriculture Two (A-2) Zone and associated regulations, including appropriate cross references to other sections of the county's Zoning Ordinance. It is recommended that the proposed text amendment adding an Agriculture Two (A-2) Zone (Z-06-09-03/1841R) be adopted prior to, or simultaneously with, the adoption of this proposed map amendment.

Mr. Schneider stated a notice was received with regard to the issue. He stated KRS requirements as to the issue and noted if someone was in the RR zone and received notice they could challenge the issue. He then noted he just wanted to make the Commission aware of the facts. Mr. Schwartz stated Staff became aware of the two additional zones within the map and contacted legal counsel on the matter as these areas were not designated on the notice. There was some discussion as to whether or not the issues should be tabled and re-noticed to the public. A brief discussion was had on that issue and a motion was then made by Mr. France to continue the hearing as stated on the agenda. Mr. Wells seconded the motion. A roll call vote on the matter found Mr. France, Mr. Wells, Mr. Barnett, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. Hadley, Mr. Hilgefurd, Ms. Hood, Mr. Whitacre and Ms. Weldon in favor. Ms. Carlin, Mr. Darpel, Mr. Ryan, Ms. Snyder and Mr. Tewes against. The motion carried with a vote of 11-5. Ms. Weldon then noted a letter was received and a copy was sent to all Commission members on the issue. It was then marked as an exhibit and made a part of the record.

No one registered to speak the issue. Mr. Adam Chaney, Mr. Bob Schroeder, Mr. Clayton B'Hymer and Mr. Jerry Brunghaus registered to speak against. Mr. Phelps registered as a neutral party on the issue.

Mr. Chaney addressed the Commission and stated there are too many acres here and stated this is a trial. He stated it's a philosophical difference here without knowing whether or not this will work. Mr. Chaney stated if there is a need the market will build. He wanted to reiterate that there are a lot of unnecessary restrictions and wanted to make sure there is a need for it. He further noted they are not so sure it makes sense to move forward with the concept.

Mr. Schroeder addressed the Commission and stated if this is put in the whole 1900 acres it would be harder to get a different zone. He noted maybe as an alternative it could be developed as a conservation district. He then stated it doesn't seem practical to rezone it this way and noted that it adds to the development costs. Mr. Schroeder then stated he specifically objected to the 50 foot perimeter. He stated this does not make sense. He stated to not be able to put in a hiking biking trail doesn't make sense.

Mr. B'Hymer addressed the Commission and stated he lives on the family farm in Independence. He stated to change this zone would significantly decrease the value of his property. He noted it looks costly and overbearing to him.

Mr. Arlinghaus addressed the Commission and stated he and his wife purchased property in the area about three years ago as an investment. He stated he is very much opposed to being in the A-2 zone as is being proposed. He noted he is in favor of the industrial zone.

Mr. Phelps addressed the Commission and asked what 1/3 of the property is left to open space. He asked about the infrastructure of the area when the density comes in. He also asked if these would be single family homes or two family residences. Mr. Weldon then noted it is for single family residences. He also asked about water in the area and whether or not there was a timeline for it. He additionally asked if this goes through how the tax base would be affected.

Staff then commented on the open space requirement. Mr. Schwartz stated 100% of the open space could be passive. He also stated the developer and designer would choose the 30% open space but they can't choose one acre here and one acre there. Mr. Hilgefurd noted this is an option and it not being imposed on anyone. Mr. Darpel then made the motion to approve the text amendment with the conditions as stated by Staff and also to include that the perimeter 50 foot setback be able to be included within the open space (pg. 10), to eliminate the requirement that it be approved by a legislative body, and also to clarify the definition of building site and site perimeter. Ms. Weldon added on page 9c, application and processing, to change wherever the Planning Commission's duly authorized representative" is mentioned that that be changed to "Planning Commission or duly authorized representative"; and on page 10 (b), the density bonus setback that that be along existing collector arterial interstates. Mr. Schwartz added on page 21, 3c, taking out "but shall..." Ms. Weldon noted at the top of that same page it should be changed to read "existing collector, existing arterial." Mr. Barnett then seconded the motion. A roll call vote on the matter found Mr. Darpel, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Eilerman, Mr. France, Mr. Hadley, Mr. Hilgefurd, Ms. Hood, Ms. Snyder, Mr. Tewes, Mr. Wells and Ms. Weldon in favor. Mr. Ryan and Mr. Whitacre voted against. The motion carried with a vote of 14-2. With regard to the map amendment Mr. Darpel made the motion to approve for the 1900 acres subject to the two conditions. The motion was clarified to read to approve the map amendment for the entire 1900 acres subject to two conditions; 1) that the text amendment be adopted prior, and 2) that the area presently zoned R-RE and the area presently zoned R-1B not be changed and remain zoned R-RE and R-1B. Mr. Hilgefurd seconded the motion. A roll call vote on the motion found Mr. Darpel, Mr. Hilgefurd, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hadley, Ms. Hood, Ms. Snyder, Mr. Tewes, Mr. Whitacre and Ms. Weldon in favor. Mr. Ryan and Mr. Wells voted against. The motion carried with a vote of 13-3.

### **1843R**

**APPLICANT:** Kenton County Planning Commission per Alexandra K. Weldon, Chair  
**LOCATION:** An approximate 930-acre area located generally south of Maher Road, east of the Kenton County line, west of Banklick Road, and north of Walton Nicholson Pike in unincorporated Kenton County.  
**REQUEST:** Proposed text amendments to the Kenton County Zoning Ordinance adding a Eco Commerce Park (ECP) Zone and associated regulations, including appropriate cross references to other sections of the County's Zoning Ordinance.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

**NKAPC STAFF RECOMMENDATION:**

To approve the proposed text amendments adding a Eco Commerce Park (ECP) Zone and associated regulations, including appropriate cross references to other sections of the County's Zoning Ordinance, but only subject to compliance with the following conditions:

1. Replace Section 10.30.D with the following list of prohibited uses:
  1. Sanitary landfills, garbage and refuse dumps;
  2. Slaughterhouses, rendering plants, fat rendering, livestock feed yard, livestock sales yard, commercial riding academy, stockyards, soap manufacturing, glue manufacturing, tannery, paper;
  3. Manufacture, processing or bulk storage of feed, fertilizer, grain or soil conditioners;
  4. The manufacturing, wood scouring and cleaning, cotton textile sizing, scouring, bleaching, dyeing and similar uses, varnish manufacturing, creosote and creosote products manufacturing;
  5. Disposal of offal or dead animals;
  6. The production of corrosive and noxious chemicals including, but not limited to, acids, acetylene gas, ammonia, chlorine, and bleaching compounds;
  7. Foundries for the casting of aluminum;
  8. The production, processing and bulk storage of coal and coal tar, the processing of petroleum and petroleum products, and petroleum refining;
  10. Manufacture, milling, mixing, processing, or bulk storage of asphalt, brick, cement, gravel, lumber, rock, sand and similar construction materials;
  11. Blast furnaces & drop forges;
  12. Distillation or manufacture of bones, wood, tar or their products;
  13. Fat, grease, lard or tallow manufacturing or processing;
  14. All mining activities;
  15. Manufacture, processing, repair, compounding, packaging, assembly, or treatment plants and facilities for explosives related to equipment, materials or products.
  
2. Section 10.30.J.2 (a) and (b) be revised to:
  - (a) Intersections adjacent to the proposed development shall be improved whenever that development will diminish their levels of service based on the following thresholds: minimum Level of Service C when located on an arterial roadway; minimum Level of Service D when located on a collector or local street.
  - (b) Intersections within the study area not adjacent to the proposed development shall be evaluated with regard to the need for improvements such as turn lanes, signal modifications, access frontage roads, and site distance clearing to maintain service levels specified above.

**Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County & Municipal Planning & Zoning Commission: December 18, 2001

## Supporting Information/Bases For NKAPC Staff Recommendation:

1. The proposed text amendments adding an Eco Commerce Park Zone (ECP), along with the necessary cross references (see Attachments 1, 2, 3, 4, 5, 6 and 7) is allowed to be included within the text of the zoning ordinance as authorized by Kentucky Revised Statutes (KRS) 100.203 (1).
2. The proposed regulations have been tailored to meet the specific land use recommendations as identified within the amended 2001 Area Wide Comprehensive Plan Update. The Eco Commerce Park regulations were prepared in order to reserve land for future light industrial uses while preserving the natural features present in the area such as riparian and viewshed areas. In addition, the proposed regulations are consistent with the Riparian Protection, Viewshed Protection and Transportation recommendations as contained within the amended *2001 Area Wide Comprehensive Plan*.
3. The regulations, as proposed, include a broad list of permitted uses rather than the lengthy list of industrial uses found in traditional zoning ordinances as recommended in the *2001 Area-wide Comprehensive Plan*. This provision along with the list of prohibited uses and performance standards is intended to permit a broad variety of industrial uses while meeting the requirements of the proposed regulations including specifications for noise, odor, light, emissions and so on. This method is supported by the *2001 Area-wide Comprehensive Plan*.

The Land Use Plan Element within the *2001 Area-wide Comprehensive Plan* states that “ Current practice within most local zoning ordinances is to utilize specific lists of permitted uses. These lists can influence the search for a location as potential industries must either exactly fit the list or determine if their operations are similar to other uses that are included. Performance standards are a good tool for evaluation operations. Any industry that can comply with locally adopted performance standards would be compatible with the larger surrounding area and, thus, should be approved for a location”.

Further the Comprehensive Plan also states that “This Plan Update recommends that all industrial districts within zoning ordinances be reviewed and evaluated, with the intent of moving away from lists of specific uses within industrial zones to performance-oriented standards which can be coordinates on an area-wide basis”.

4. The Development Concepts outlined in the *2001 Area-wide Comprehensive Plan* states that “ Development on major arterial streets should incorporate adequately designed access controls. Such a concept would aid in maintaining existing and projected roadway capacities, and would provide for safe vehicular and pedestrian movements.”

The proposed regulations require traffic studies when development plans are submitted as a tool to implement the above development concept. Area 2 on the attached map is bounded on the east by a railroad thereby not allowing for access on to Banklick Road. While access to this area can be provided from Walton Nicholson Pike, the primary access for most of the area is likely to be from Boone County. In order to address these issues at the Stage II Development Plan a traffic study would be required per the proposed regulations based on the amount of traffic generated by the development.

Details of the traffic study and the determination of the study area will be discussed at the pre application stage.

5. The proposed Natural Resource Protection regulations cover three natural features – Hillsides, Riparian areas along creeks and Viewshed Areas. All of these were identified as key features for protection in the amended *2001 Area-wide Comprehensive Plan*.
6. The suggested width of the riparian buffer (75 feet on either side measured from the centerline of the stream) in the ECP Zone is a reasonable buffer based on available scientific information to protect the stream from runoff, sedimentation and to improve water quality.

The areas in question where these regulations would apply are located in the upper reaches of the Banklick Creek watershed. The Banklick Creek is currently listed by the State of Kentucky as an impaired creek due to nutrients, siltation, habitat alterations, organic enrichments/low dissolved oxygen and pathogens.

A study done by the U.S Army Corps of Engineers in 2000 Banklick Creek Watershed, Kenton County, Kentucky, Flood Damage Reduction / Ecosystem Restoration, Section 905(b) (WRDA 1986) Analysis states that “Establishment of “no-mow” zones and/or floodplain and riparian plantings to create a streamside buffer would enhance the water quality and wildlife diversity along Banklick Creek by reducing water temperatures, filtering non-point source runoff pollution, and providing wildlife corridors with additional foraging opportunities. In order to achieve these objectives, this proposal suggests the establishment of a riparian corridor twice the active channel width on either side of the stream, (or a total width of approximately 250 feet), wherever possible..... James MacBroom in *The River Book* , 1998 suggests that a twenty-meter (66 feet) buffer can effectively reduce nitrogen levels. Buffers between one hundred and three hundred feet have been demonstrated to effectively remove smaller sized particles as well as urban runoff”.

While the areas in question contain several streams, the regulations would only apply to perennial streams in the area. These were delineated based on information from U.S.G.S maps that include “Blueline streams” or perennial streams. Perennials streams are defined as those streams that flow more than 90 percent of the year and have a well-defined channel.

7. The proposed viewshed protection regulations only apply to areas 400 feet on either side of an arterial or a collector street. The 400 feet requirement delineates areas that will be affected by the viewshed protection regulations but does not require viewshed protection measures to be implemented for the entire 400 feet. Options are included for various methods including earth berms, preserving existing vegetation, landscaping and reforestation to protect viewsheds along arterials and collectors.
8. The recommended changes to the goals of the traffic study in Section 10.30.J (a) and (b) clarifies the requirements of the traffic study with respect to on-site and off-site traffic improvements. The change clarifies that applicants will only be required to study intersections in the larger study area that will be established at the pre-application meeting. The establishment of Level of Service thresholds provides a consistent set of

requirements and thresholds which can be applied to all developments within the limits of the ECP Zone.

9. The proposed changes to the prohibited uses list in Section 10.30.D is a more comprehensive list of uses that should not be permitted in the ECP Zone. The Tri-County Economic Development Agency has provided input to NKAPC staff on this list to ensure that uses that are detrimental not only to the surrounding neighborhood but also to future industries in the area are not permitted in the ECP Zone.

#### **1844R**

**APPLICANT:** Kenton County Planning Commission per Alexandra K. Weldon, Chair

**LOCATION:** An approximate 930-acre area located generally south of Maher Road, east of the Kenton County line, west of Banklick Road, and north of Walton Nicholson Pike in unincorporated Kenton County.

**REQUEST:** Proposed map amendments to the Kenton County Zoning Ordinance changing the described area from A-1 (agriculture one zone) to ECP (Eco Commerce Park) Zone.

No one registered to speak for the issue. Mr. John Benton, Mr. Dan Benton, Ms. Sabrina Spaulding Richardson, Mr. Lannie Collins, Ms. Julie Russo, Mr. Scott Kimberlin, Mr. Manny Hopperton and Mr. Marvin Phelps registered to speak against.

Ms. Weldon read numerous letters into the record in regard to the issue which were marked as exhibits and made a part of the record on the matter.

Mr. Benton addressed the Commission and stated he opposes the zone because the property is currently a family farm. He stated hanging it to an ECP zone would prevent them from continuing as a family farm.

Mr. Dan Benton addressed the Commission and stated he is against the change because they have a family farm as well. He stated it's a hassle to get a building permit. He noted they own property both beside and behind Duro Bag.

Mr. Richardson addressed the Commission and stated his concerns are the same as the Bentons. He stated they would like to retain the zone to allow them to build on their property.

Mr. Collins addressed the Commission and stated he doesn't understand why this is being done. He stated he is concerned about flooding now. He further stated the way the property is laid out even with screening you would still be looking right into the property.

Ms. Russo addressed the Commission and stated she build a home five years ago. She stated they love watching the cows on area property. She stated they do not want to look at more buildings in the area. She stated she does agree with the statements made by Mr. Wolnitzek in his letter that was read.

Mr. Kimberlin addressed the Commission and stated he is against going to the PCP zone. He stated it devalues his farm. He noted the area is not level and there are hills and valleys. He noted he would prefer that the zoning stay the same and does not feel the PCP zone is a good fit for his family or his future.

Mr. Hopperton addressed the Commission and stated he agrees with all others that spoke against the issue. He stated he would much rather see the property be A-2.

Mr. Phelps addressed the Commission and stated the only question he had is what the definition includes when it's called light industrial. He asked if it can include manufacturing. Ms. Weldon stated Staff would clarify the uses but noted they are trying to limit the uses to be less invasive as possible.

Mr. Tiberke arrived after his letter was read and was allowed to address the Commission in favor. He stated he is overall very much in support of the effort. He stated they feel the impervious surface amount should be raised from 60% to 80%. He stated reducing the riparian buffer from 75 to 25 would be more efficient. Mr. Tiberke stated they very much would like to see the proposals adopted and approved.

Staff then clarified the list of permitted uses. She stated they were trying to get away from a long list of permitted uses and instead prepared a list of what is prohibited. It was stated they do have performance standards as to odor, noise and emissions that they can look into to make them stronger.

Mr. Hilgefurd stated he doesn't have a problem with the text amendment but 100% of the people were against the map amendment and it is rare that you have 100% of the property owners in an area show up and voice an opinion. He then asked if there was some way to break that section away from the rest since all the property owners were opposed. Mr. Weldon stated it could be done in the motion by leaving out that section. Mr. Darpel asked if there was any way to make it more objective versus subjective. He stated he has a hard time with the criteria. Mr. Schwartz stated the wording is essentially the same as the MLU zones in the city. He stated the zones are not to be taken as an individual but as an entirety. He further stated the A-1 zone allows for agricultural. Mr. Cook asked if someone had a family farm of 15 acres and wanted to split it up and give it to his children, under the ECP zone it could not be done. Mr. Schwartz stated if it was a 75 acre tract it could be divided into 3 25-acre lots and that could be done under the ECP zone because there is a 25-acre minimum for the zone. Mr. Ryan asked about the timer cutting language as to whether this applied to lumber or merely taking down a few trees. Sharmili stated this applied to logging or taking down a number of trees. Mr. Hilgefurd stated the problem is there have been so many changes to the original text given to the Commission that it would be difficult bringing the motion. Mr. France stated there really is no access to the upper portion of the proposed ECP zone except through Boone County. He noted virtually all property owners in area 1 are against the ECP zone. Mr. Hilgefurd then made the motion to approve with regard to page 14, 2, under viewshed protection, to add the word "existing" before "arterial" and "collector street"; under 3c, rewriting the second sentence to state simply "the areas may account for any open space requirement"; page 16, bottom of "d", changing the last sentence to "in accordance with all sections of this ordinance" to "the planning commission or its duly authorized representative"; page 17 under prohibited uses, substituting the expanded list as provided by Triad and submitted to the Commission by Staff; page 21, the use of the term "visually appealing" in design F. Mr. Barnett seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hadley, Ms. Hood, Mr. Tewes, Mr. Wells and Ms. Weldon in favor. Mr. Cook, Mr. Darpel, Mr. Ryan, Ms. Snyder and Mr. Whitacre voted against. The motion carried with a vote of 11-5. As to the map amendment, Mr. Hilgefurd made the motion to approve subject to two conditions, 1) condition

authored by Staff and the text being adopted prior, and 2) that the northern area remain as it was currently zoned. Ms. Hood seconded the motion. A roll call vote on the matter found Mr. Hilgeford, Ms. Hood, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Eilerman, Mr. France, Mr. Hadley, Ms. Hood, Mr. Tewes, Mr. Wells and Ms. Weldon in favor. Mr. Cook, Mr. Darpel, Mr. Ryan, Ms. Snyder and Mr. Whitacre voted against. The motion carried with a vote of 11-5.

\*At this time (8:05 p.m.) a ten minute break was taken.

**1845R**

**APPLICANT:** Carol L. Bethel and Joe F. Daugherty, III.

**LOCATION:** An approximate 12,000 square foot area on the southeast side of Jackson Road approximately 950 feet northeast of its intersection with Cleveland Avenue in Park Hills.

**REQUEST:** a proposed map amendment to the Park Hills Zoning Ordinance changing the described area from R-2 (a multi-family residential zone) to R-1FF (a single-family and two-family residential zone).

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

**NKAPC STAFF RECOMMENDATION:**

To approve the proposed map amendment from R-2 to R-1FF.

**Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County & Municipal Planning & Zoning Commission: December 18, 2001

**Supporting Information/Bases For NKAPC Staff Recommendation:**

1. The current zoning of R-2 on the site in question is inappropriate and the proposed zoning of R-1FF is appropriate. The proposed zoning of R-1FF will permit residential development at a density ranging from approximately 7.2 to 9.7 dwelling units per net acre, which is more in line with the Recommended Land Use Map than the density permitted within R-2 Zone. The site in question is part of a larger single-family residential neighborhood to the north, southwest, and east. Therefore, the proposed map amendment is a logical extension of the R-1FF Zone.
2. The proposed map amendment from R-2 to R-1FF is consistent with the following Goals and Objectives and Development Concepts contained within the 2001 Area-Wide Comprehensive Plan Update:

Effort should be made to ensure that areas which are proposed to be developed for purely residential purposes are protected from the intrusion of incompatible land uses.

*A variety of residential densities is desirable.*

Various densities would accommodate a variety of housing types to serve a variety of economic and social desires and capabilities.

*The type of development that should occur within an area should be based, in part, upon the unique characteristics of the development site and the character of adjacent development.*

Such a concept would insure that the proposed development would be compatibly incorporated into the area and would enable the development to best utilize the area's existing features.

*The density of development for undeveloped land should be based on considerations such as: (a) the density of adjacent developed areas, of which the undeveloped land would be a logical extension; (b) access to major transportation facilities; (c) the nature of adjacent activities; and (d) residential development in rural areas should be designed to maintain existing rural character of open space and the appearance of low density.*

Such a concept would result in development which is compatible with surrounding land uses and which would not result in generating high volumes of traffic through low density areas.

The proposed map amendment will permit residential development that is consistent with the density, size, and scale of the adjacent single-family residential neighborhood.

3. The proposed map amendment is consistent with a previous recommendation made by the NKAPC staff and the KCPC:

On June 15, 1995, Mr. Fritz Kuhlman, on behalf of Mr. Clyde A. Jacob, submitted an application for review and recommendation on a proposed map amendment to the Park Hills Zoning Ordinance, changing an approximate .9 acre area adjacent to and located southwest of the site in question from R-2 to R-1FF (Z-95-06-05/1208R). On June 30, 1995, the NKAPC staff recommended approval of the proposed map amendment. On July 6, 1995, following a public hearing, the KCPC recommended approval of the proposed map amendment.

No one registered to speak against the issue. Mr. Joe Daugherty and Mr. Adolf Allash registered to speak in favor.

Mr. Daugherty addressed the Commission and stated he supports Staff recommendations.

Mr. Allash addressed the Commission and stated he supports it but asked why it took eleven years for the change. Mr. Schwartz stated no one asked about it until now. He stated the property owners want to build a garage and cannot without the zone change. Mr. Hilgefurd then made the motion to approve based on Staff's recommendations. Mr. Ryan seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Ryan, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. France, Mr. Hadley, Ms. Hood, Ms. Snyder, Mr. Tewes, Mr. Whitacre, Mr. Wells and Ms. Weldon in favor. The motion carried unanimously.

#### **1846R**

**APPLICANT:** City of Covington, per Frank Warnock  
**REQUEST:** proposed text amendments to the Covington Zoning Ordinance: (1) adding vintage clothing, jewelry, accessory and antique consignment shops as a conditional use within the CBD (Central Business District) and CT (Commercial - Tourist) Zones; and (2) prohibiting drive-through facilities

within those commercial and industrial zones with a “M” (mixed) character standard.

Staff presentation and Staff recommendations by Mr. Michael Schwartz.

**NKAPC STAFF RECOMMENDATION:**

Recommendation A: Disapproval of the proposed text amendment adding vintage clothing, jewelry, accessory and antique consignment shops as a conditional use within the CBD (Central Business District) and CT (Commercial - Tourist) Zones (see Attachment A).

Recommendation B: Disapproval of the proposed text amendment prohibiting drive-through facilities within those commercial and industrial zones with a “M” (mixed) character standard (see Attachment B).

**Comprehensive Plan Documentation:**

- Date of Adoption by the Kenton County & Municipal Planning & Zoning Commission: December 18, 2001

**Supporting Information/Bases For NKAPC Staff Recommendation:**

Recommendation A:

1. The proposed text amendment adding vintage clothing, jewelry, accessory and antique consignment shops as a conditional use within the CBD (Central Business District) and CT (Commercial - Tourist) Zones (see Attachment A) is not appropriate.
  - a. The zoning ordinance specifically defines a consignment shop as a secondhand store. The proposed text amendment would contradict the definitions, making administration of the text arbitrary.
  - b. The zoning ordinance currently identifies antique store as a permitted use within all of the commercial zones, except for the CRL (Commercial-Riverfront (Limited)) Zone. The zoning ordinance defines an antique store as one that has items that are 50 years old or have collectible value. Again, administration of the proposed text would be arbitrary in determining if the specific use was an antique store or a secondhand store.

Recommendation B:

1. The proposed text amendment prohibiting drive-through facilities within those commercial and industrial zones with a “M” (mixed) character standard (see Attachment B) is not appropriate.
  - a. Currently, drive-through facilities are limited to the rear of the building within those commercial and industrial zones with a “M” (mixed) character standard. This limitation is reasonable and appropriate.

- b. The following uses are permitted within many of the commercial zones: postal service, laundry service, eating establishment, and financial service. It has become customary that many types of these businesses have drive-through facilities. To prohibit drive-through facilities in areas intended to have a mixture of pedestrian and auto oriented characteristics would be unreasonable and could have an unwanted negative economic impact.

No one registered to speak on the issue.

Mr. Hadley made the motion to disapprove based on Staff's report. Mr. Wells seconded the motion. A roll call vote on the matter found Mr. Hadley, Mr. Wells, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. France, Mr. Hilgeford, Ms. Hood, Ms. Snyder, Mr. Ryan, Mr. Tewes, Mr. Whitacre and Ms. Weldon in favor. Mr. Eilerman abstained. The motion carried.

**W-676**

**APPLICANT:** City View Village, LLC

**LOCATION:** an approximate 12-acre area located on the west side of West Dixie Highway, approximately 400 feet south of Montague Road directly across from West 12<sup>th</sup> Street in Covington

**REQUEST FOR**

**ACTION:** To grant waivers from requirements of Sections 4.1 and 5.3 of the Kenton County Subdivision Regulations; granting the requests would waive the requirements for full intersection improvements at the proposed entrance on Dixie Highway (US 25/42/127) as well as the requirement for construction of sidewalks along both sides of the streets within the proposed development and along the development's frontage on Dixie Highway.

Staff presentation and Staff recommendation by Ms. Laura Mitchell.

**NKAPC STAFF RECOMMENDATION:**

To deny the requested Waiver to Section 4.1 and require that intersection improvements be provided at the proposed intersection with Dixie Highway (US 25/42/127).

**Bases:**

1. Subdivision Regulations Section 4.1 requires reserved turn lanes at those access points where turning vehicles to and from arterial and collector streets will affect the roadway capacity or safety. Dixie Highway is classified as an arterial street. Roadway capacity and safety will be affected without the provision of reserved turn lanes at the entrance to the proposed development.
2. The modifications, as requested, do not include the findings necessary to grant waivers to the regulations as set forth within Section 6.5 A, B, C, or D.
3. Arterial streets are an important component of the total transportation system. Consequently, the impact of direct land service functions should be minimized and high standards for curb cuts should be applied to protect street capacities so they may function according to design. In addition, it is important that development on major arterial streets

incorporate adequately designed access controls to aid in maintaining not just existing, but projected roadway capacities as well.

**Recommendation #2:**

To deny the requested Waiver to Section 5.3 and require sidewalks along both sides of the new streets as well as along one side of existing streets (Dixie Highway) for the portion fronting the proposed development.

**Bases:**

1. Subdivision Regulations Section 5.3 requires sidewalks along both sides of new streets as well as along one side of existing streets for the portion fronting the proposed development.
2. The modifications, as requested, do not include the findings necessary to grant waivers to the regulations as set forth within Section 6.5 A, B, C, or D.
3. While a limited amount of sidewalk currently exists along Dixie Highway within this vicinity, not providing a sidewalk along the entire frontage will eliminate the possibility of a sidewalk extension and interconnection with future development.
4. Each side of every roadway within the proposed development is expected to provide 'front door access' to at least one unit. It is important that sidewalks be provided wherever 'front door access' is located as this is the primary point for pedestrian ingress and egress.

Mr. Mark Glassmeyer, Mr. Paul Suplinger, Mr. Tom Abercrombie and Mr. Jack Gehrum registered to speak on the issue.

Mr. Suplinger addressed the Commission and stated he is excited about the site but stated the site does have its challenges. He stated they have spent numerous engineering hours working on the site. He noted to install the sidewalk increases the slope stability aspect of the development. He noted they tried to encourage off street parking by providing two car garages. He stated they feel the topography of the area provides the basis for granting the waiver request. He then stated they are committed to Kenton County and Covington.

Mr. Abercrombie addressed the Commission and stated he does believe the limited frontage they have on Dixie Highway limits their ability to put in the sidewalks on both sides. He stated in order to install the sidewalks they would have to do some excavating and put in a retaining wall which would disturb the slope. He additionally stated to install the sidewalks they would have to research how to go about doing so with the topography. Mr. Hilgefurd stated he would like to see some steps or some kind of access to Southgate Street which would allow for the access to the existing sidewalks. Mr. Suplinger stated they are already proposing access to Southgate Street that is not shown on the plan.

Mr. Gehrum addressed the Commission and stated they performed a traffic study to look at the access of the area. He stated in the study it showed that the left turn lane turning out would be a level service A and the left turn lane turning in would be level service B. He stated the real issue

is the most available right of way is on the south side where there are heavy utilities. He stated he rally can't say there was anything more unusual or dangerous than what is already there currently. He stated observing the traffic patterns today you would have no trouble making the left turn into the development.

Staff noted they were not made aware of the steps or access to Southgate Street and noted it was not on the plan. It was further noted they may have reevaluated their recommendation had they known that fact. It was additionally noted they still felt it was important to have the sidewalks on both sides of the street due to the fact there are front doors and the residents would need somewhere to access bus stops.

After a brief discussion on the matter, Mr. Hadley then made a motion to deny both waivers based on Staff recommendations. Mr. France seconded the motion. Mr. Hilgefurd stated he felt sidewalks on both sides was overkill but felt there needed to be sidewalks on one side. Mr. Hadley then restated his motion and stated he felt sidewalks needed to be on one side, but as to the turn lanes he made the motion to deny the waiver request. Ms. Weldon then suggested splitting the two motions. Mr. Hadley modified his motion to grant the waiver for sidewalks only within the project on internal streets on one side, but that sidewalks are to be extended on both sides of the access road to remain on the Dixie frontage and to ensure public pedestrian access to Pike Street, with access steps to Southgate Street, to be based on topographical issues. Mr. France seconded the motion. A roll call vote on the motion found Mr. Hadley, Mr. France, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. Darpel, Mr. Eilerman, Mr. Hilgefurd, Ms. Hood, Mr. Ryan, Ms. Snyder, Mr. Tewes, Mr. Whitacre, Mr. Wells and Ms. Weldon in favor. The motion carried unanimously. Mr. Hilgefurd stated he feels it is a hardship on the developer to provide for the right turn lane but feels the left turn is necessary. Mr. Hilgefurd then made the motion to grant the waiver and to require the left turn lane coming north on Dixie Highway but not a deceleration lane going south. Mr. Eilerman seconded the motion. A roll call vote on the matter found Mr. Hilgefurd, Mr. Eilerman, Mr. Barnett, Ms. Carlin, Mr. Coates, Mr. Cook, Mr. France, Mr. Hadley, Ms. Hood, Mr. Wells and Ms. Weldon in favor. Mr. Darpel, Ms. Snyder, Mr. Tewes and Mr. Whitacre voted against. The motion carried with a vote of 12-4.

Ms. Weldon read a letter into the record from Jay Fossett which was marked as an exhibit and made a part of the record on the matter.

### **Old and Unfinished Business:**

#### **Reports from Committees:**

*Subdivision Regulations Review* – Nothing to report.

*Comprehensive Plan Update* – Nothing to report.

*By-Laws* – No meeting held.

*Model Zoning Ordinance* – Ms. Weldon stated a meeting would be held on 10/12 at 4:00 p.m.

*Executive*- Nothing to report.

*Report from legal counsel* – Mr. Schneider reported on the lawsuit filed by Taylor Mill. He noted that Gary Edmondson filed a motion to intervene and filed suit against all the Commissioners. He stated the judge gave each side ten days briefing schedule to respond. He then stated he can get a copy of the suit for anyone interested in having a copy.

*Announcements from Staff* – Nothing to report.

*Correspondence* – None.

**New Business:** - None.

There being nothing further to come before the Commission, a motion was then made by Mr. Hilgeford and seconded by Ms. Snyder adjourn. All in favor. None opposed. The meeting then adjourned at approximately 11:35 p.m.

APPROVED:

---

Chair

---

Date